

**Education and Workforce Development Cabinet**

**Kentucky Board of Education**

**Department of Education**

**(New Administrative Regulation)**

**701 KAR 5:140. Districts of Innovation.**

RELATES TO: KRS 156.108, 156.160(1)(g), 160.107

STATUTORY AUTHORITY: KRS 156.108, 156.160

NECESSITY, FUNCTION, AND CONFORMITY: 156.160 (1) (g) gives the Kentucky Board of Education the authority to promulgate administrative regulations and KRS 156.108 requires the Kentucky Board of Education to promulgate administrative regulations to prescribe the conditions and procedures to be used by a local board of education to be approved as a district of innovation by the Kentucky Board of Education. This administrative regulation establishes the requirements and approval process for districts of innovation.

Section 1. Definitions. (1) “Competency based learning” means a framework for the awarding of credit to students upon mastery of Kentucky’s Core Academic Standards in 704 KAR 3:303; any additional competencies also include explicit, measurable, transferable learning objectives that empower students; students receive timely, differentiated support based on their individual learning needs; and learning outcomes emphasize competencies that include application and creation of knowledge along with the development of important skills and dispositions.

1 (2) “District of Innovation” is defined in KRS 156.108.

2 (3) “Eligible employees” is defined in KRS 160.107.

3 (4) “Expanded Learning Opportunities” means initiatives that provide students additional  
4 opportunities for enrichment, personal growth, and engagement outside the traditional school  
5 day, and that may include extended day/year initiatives, before- and after-school programs,  
6 Saturday, weekend, and summer programs, distance learning, and early childhood education  
7 initiatives.

8 (5) “Innovation” is defined in KRS 156.108.

9 (6) “Innovative strategies” mean strategies that provide non-traditional approaches to all areas of  
10 curriculum, instruction, assessment, governance, and school operation.

11 (7) “School of Innovation” is defined in KRS 156.108.

12 Section 2. Conditions and areas of emphasis for innovation.

13 (1) Any public school district may submit an application for approval as a district of innovation.

14 No individual school may submit an application except as part of a district application.

15 (2) A district may include in its application a request for waiver from any administrative  
16 regulation promulgated by the Board of Education or any Kentucky Revised Statute related to  
17 public schools except the following:

18 (a) Any health, safety, civil rights or disability rights requirements in statute or administrative  
19 regulation;

20 (b) The compulsory attendance requirements under KRS 158.030 and 158.100;

21 (c) The Kentucky Core Academic Standards outlined in KRS 158.685 and 704 KAR 3:303;

22 (d) The minimum high school graduation requirements set forth in 704 KAR 3:305;

23 (e) The statewide assessment system requirements specified in KRS 158.6453;

- 1 (f) The financial audit, audit procedures, and audit requirements under KRS 156.265;
- 2 (g) The criminal background check requirements specified in KRS 160.180 and 161.148;
- 3 (h) The open records and meetings requirements in KRS Chapter 61;
- 4 (i) The purchasing requirements and limitations in KRS Chapter 45A, 156.074 and 156.480; or
- 5 (j) The instructional time requirements in KRS 158.070. A district may include in its application
- 6 a request to implement competency based learning strategies that measure a student's mastery of
- 7 the curriculum standards, regardless of the amount of instructional time completed.
- 8 (3) A district may incorporate in its application any innovative strategies and models that have
- 9 been shown to be effective in other districts or states or new innovative strategies or models
- 10 created by the district or school. Innovative strategies may include:
- 11 (a) Moving to a competency based learning system, including development of alternate methods
- 12 for delivering curriculum and for measuring mastery of standards and skills;
- 13 (b) Creating multiple pathways to graduation, including rigorous career and technical pathways,
- 14 apprenticeships, early college high schools, early graduation options, and digital learning
- 15 opportunities;
- 16 (c) Rethinking the times and places that learning occurs, including lengthening or flexing the
- 17 school day and school year, moving learning beyond the traditional school building, and
- 18 incorporating expanded learning opportunities;
- 19 (d) Implementing alternative forms of school governance that include the engagement of
- 20 teachers, parents, and community members that do not meet the requirements of KRS 160.345;
- 21 (e) Designing learning environments that include the student in the design of learning pathways;
- 22 and

(f) Creating additional job classifications for certified and classified staff beyond the traditional roles of teacher and instructional assistants and compensating staff on schedules other than single salary schedules.

Section 3. Application process. (1) A district may submit an original or renewal application to the Department at any time within the calendar year provided the implementation date is at least 180 days from the date of submission of the application.

(2) Pursuant to KRS 160.107, a district shall identify and include in its application those schools that have voluntarily chosen to be schools of innovation, any persistently low-achieving schools that the district is requiring to be schools of innovation, and any district operated schools the district plans to create in its application.

(3) The Department shall provide technical assistance to districts prior to application submission.

(4) The application shall include the following components:

(a) An individual school level plan for each school included in the district's innovation plan and for any district-operated school the district plans to create under the application;

(b) A description of how the district's innovation plan shall provide greater improvement in student outcomes, particularly among low-achieving students, than the outcomes the district would expect using its existing instructional programs. The plan shall specifically address how it more effectively improves the multiple measures required under the accountability system, including targets for student achievement, student growth, achievement gap reduction, graduation rate, and college and career readiness;

(c) A description of the district's plan to ensure that capacity exists in both human and fiscal resources to implement the changes needed in the district to ensure a successful implementation of the district's innovation plan;

1 (d) A description of the district's attendance policy for non-traditional settings and the district's  
2 plan to ensure that all students meet attendance requirements;

3 (e) A plan for developing alternate assessment options and measuring student performance  
4 outcomes in non-traditional settings including extended learning opportunities, apprenticeships,  
5 private instruction, work-study, study in a foreign country, awarding of competency based  
6 learning credit, community service, independent study, and on-line learning opportunities;

7 (f) A description and rationale for the innovation strategies and models chosen to be  
8 implemented;

9 (g) A list of the statutes, administrative regulations and local board policies from which the local  
10 district is seeking a waiver or exemption in order to implement innovative practices and an  
11 explanation of how the requirements of those authorities are a barrier to that implementation;

12 (h) Documentation of broad support for innovations including parents, local institutions of higher  
13 education, and business and community partners. This documentation may include:

14 1. Minutes of local board of education meetings where the District of Innovation application was  
15 discussed;

16 2. Transcripts or minutes from stakeholder meetings designed specifically to develop or support  
17 the District of Innovation application;

18 3. Minutes of school-based decision making (SBDM) councils that include information showing  
19 an affirmative vote of at least 70% of the eligible employees to participate in the application as  
20 well as discussion of the application itself; and

21 4. Letters of support and commitment to adhere to the innovation plan from a variety of local  
22 stakeholder groups including parent, community, and business groups;

(i) A detailed budget indicating how the local board of education shall support implementation of the innovation plan over the course of the initial five-year innovation period;

(j) Signatures of the superintendent and board chair along with official board minutes documenting a vote to approve submission of the application;

(k) Signatures of the chair of the SBDM council for each school participating in the application;

and

(l) A description of how the district shall support job-embedded professional learning.

(5) A committee designated by the Commissioner shall review and recommend approval or denial of a completed application to the Kentucky Board of Education within sixty (60) days from receipt of the completed application. An incomplete or denied application shall be returned to the district and, if re-submitted, the committee shall review and recommend approval or denial to the Kentucky Board of Education within sixty (60) days of receipt of the re-submitted application.

(6) The Kentucky Board of Education shall make the final decision on approval or denial of the application at its first regularly scheduled meeting following the sixty (60) day review period. A successful application shall be given an initial approval for five (5) years. A district that is approved and whose application is still active after five (5) years may submit a renewal application using the application process outlined in this regulation. Each renewal of a district of innovation shall not exceed five (5) years.

(7) A district approved as a District of Innovation may amend its plan as needed at any time after the first full year of implementation using a process established by the Department of Education. The amended plan shall be referred to the committee described in this section.

1 Section 4. Monitoring of plan implementation. (1) District and school innovation plans shall be  
2 incorporated within the overall district comprehensive plan or shall replace the district  
3 comprehensive plan.

4 (2) At the completion of the second year after plan approval and each year thereafter for the term  
5 of the approval status, a district approved as a District of Innovation shall annually provide data  
6 to the Commissioner that shall include the following:

7 (a) Number of students served by the innovation plan, total number and by socio-economic  
8 status, race/ethnicity, gender and disability and grade level;

9 (b) Number of students served by the innovation plan not on track to graduate from high school,  
10 total number and by socio-economic status, race/ethnicity, gender and disability and grade level;

11 (c) Documentation of student progress toward graduation and college and career readiness;

12 (d) Total number of certified teachers participating in the innovation plan and their roles and  
13 responsibilities;

14 (e) Documentation of certified and classified staff operating in a non-traditional school  
15 environment;

16 (f) Documentation of any extended learning opportunities in which students in the innovation  
17 school participate for the purposes of earning or recovering credit, including qualifications of  
18 instructors, time spent, and student outcomes; and

19 (g) Other measurable outcomes specific to the district's innovation plan as described in the initial  
20 application.

21 (3) At the end of the second year after plan approval and each year thereafter for the term of the  
22 approval status, a district approved as a District of Innovation shall receive an annual site visit  
23 from an review team selected and trained by the Department of Education. The purpose of the

visit shall be to monitor progress and interview staff and students to collect qualitative data on the effect of the innovation plan and for future research needs.

(a) The Department of Education shall develop a rubric to be used by the site visit team to monitor the implementation of the innovation plan. The rubric and interview questions shall be provided to all innovation districts and posted on the Department of Education website; and

(b) The Department of Education shall be responsible for providing training on the use of the rubric to site team members.

Section 5. Probation, revocation, and appeal procedures. (1) After its annual review of a district's implementation report and the report of the site visit team, the Kentucky Board of Education may, on the anniversary of the application approval, determine that a district should be placed on probation and shall provide the district with a corrective action plan.

(2) Upon the subsequent year's review of the reports, if the Kentucky Board of Education does not believe the district has met the expectations of the corrective action plan, it may revoke a district's approval as a District of Innovation.

(3) Upon notification of probation or revocation of District of Innovation status, the Kentucky Board of Education shall give the district thirty (30) days to appeal the decision in writing and shall rule on the appeal at its next regularly scheduled meeting following the submission of the appeal.

(4) Any district that has had its status as a District of Innovation revoked must wait one calendar year before re-applying to be a District of Innovation.

Section 6. (1) Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Districts of Innovation Application", November, 2012;



- 1 (b) “Districts of Innovation Application Scoring Rubric”, November, 2012.
- 2 (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at
- 3 the Department of Education, Division of Innovation and Partner Engagement, 1<sup>st</sup> floor, Capital
- 4 Plaza Tower, 500 Mero Street, Frankfort, Kentucky, Monday through Friday, 8 a.m. to 4:30 p.m.

TENTATIVE

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(4).

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
Terry Holliday, Ph.D.  
Commissioner of Education

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
David Karem, Chairperson  
Kentucky Board of Education

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this proposed administrative regulation shall be held on December 21, 2012, at 10 a.m. in the State Board Room, 1<sup>st</sup> Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky. Individuals interested in being heard at this meeting shall notify this agency in writing five working days prior to the hearing of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until January 2, 2013. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to Kevin C. Brown, General Counsel, Kentucky Department of Education, First Floor, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky, 40601, phone 502-564-4474, fax 502-564-9321.

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 701 KAR 5:140

Agency Contact Person: Kevin C. Brown

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the guidelines for districts applying for District of Innovation status.

(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of KRS 156.108 to prescribe the conditions and procedures to be used by a local board of education to be approved as a District of Innovation.

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation provides specific guidelines for the conditions, application process, monitoring, evaluating, and consequences for districts applying for district of innovation status.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation provides districts the necessary guidance for submitting an application for District of Innovation status and further provides guidance on how approved applications will be monitored and what consequences occur when an approved district fails to adequately implement its plan.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: Not an amendment.

(b) The necessity of the amendment to this administrative regulation: Not an amendment.

(c) How the amendment conforms to the content of the authorizing statute: Not an amendment.

(d) How the amendment will assist in the effective administration of the statutes: Not an amendment.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: All public school districts in Kentucky are eligible to apply for District of Innovation status.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: The administrative regulation will impact districts applying for District of Innovation status by providing necessary guidance for applying and will further affect districts approved as Districts of Innovation by providing guidance on the monitoring and evaluation of approved district applications.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: School districts approved as Districts of Innovation must follow the guidance for monitoring and evaluation of approved applications as well as honoring any consequences that must be completed for failure to implement their plan.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no cost to the school districts or the agency other than minimal administrative costs.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The approved Districts of Innovation will be provided flexibility from the requirements of selected administrative regulations, Kentucky Revised Statutes, and local board of education policies for school administrators, teachers, and staff to meet the diverse needs of students.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Minimal administrative cost to promote and manage the application process. Current staff will be used to manage the process.

(b) On a continuing basis: The proposed regulation results in additional costs to the agency to conduct monitoring visits. The cost is estimated at \$5,000 per District of Innovation.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The agency's general funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase will be necessary.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all school districts.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 701 KAR 5:140  
Contact Person: Kevin C. Brown  
Phone number: 564-4474

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The agency and local school districts.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 156.108.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. Minimal effect. The management of the process will be handled by existing staff at the agency. Agency funds will be used for this process.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? \$5,000.

(d) How much will it cost to administer this program for subsequent years? Monitoring program will cost approximately \$5,000 per approved district. We anticipate 3-5 new districts each year.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-): This administrative regulation doesn't have an expenditure impact on local school districts. The expenditure impact on the agency is the cost of monitoring the implementation of District of Innovation plans and this impact should be addressed by the re-allocation of existing funds to cover these costs.

Other Explanation:

Summary Page - Incorporation by Reference

701 KAR 5:140. Districts of Innovation.

(1) The following documents are incorporated by reference:

- (a) “Districts of Innovation Application”, November, 2012;
- (b) “Districts of Innovation Application Scoring Rubric”, November, 2012.

(2) This document serves to provide guidance to local school districts about the conditions that need to be present for awarding District of Innovation status, process for applying for District of Innovation status and the subsequent processes for monitoring and evaluating the approved applications and consequences should a district fail to properly implement the plan in its approved application.

(3) The documents incorporated by reference consist of 14 pages.